

CALIFORNIA GAMBLING CONTROL COMMISSION

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DATE: July 21, 2005

TO: Gambling Control Commission

FROM: Gary Qualset, Deputy Director
Compliance Division

SUBJECT: Indian Gaming Special Distribution Fund and Indian Gaming Revenue Sharing
Trust Fund Shortfall Distribution Report per Government Code Section 12012.90

Government Code Section 12012.90 provides a mechanism that requires the California Gambling Control Commission (Commission) to distribute moneys appropriated and transferred from the Indian Gaming Special Distribution Fund (SDF) to the Indian Gaming Revenue Sharing Trust Fund (RSTF) for the purpose of making payments of any shortfalls that may occur in the RSTF. A copy of Government Code Section 12012.90 is attached to the end of this report. Additionally, Government Code Section 12012.85 provides for how moneys in the SDF shall be available for appropriation by the Legislature.

Government Code Section 12012.90 requires the Commission to:

- Determine the aggregate amount of shortfalls in payments that occurred in the RSTF pursuant to Section 4.3.2.1 of the Tribal-State Gaming Compacts (Compact) for each fiscal year commencing with the 2002-03 fiscal year,
- Report to the committees in the Legislature that consider the State Budget an estimate of the amount needed to backfill the RSTF on or before the date of the May budget revision for each fiscal year, and
- Distribute the moneys without delay, upon a transfer and appropriation from the SDF to the RSTF, to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding, and furthermore,
- Prohibits an eligible recipient Indian tribe from receiving an amount from the backfill in excess of \$275,000 per eligible quarter, and
- Specifies that any transfer of funds from the SDF to the RSTF that results in a surplus shall revert back to the SDF.

As set forth in the Government Code Section 12012.90, in case of occurrence of any shortfalls in payments that occur in the RSTF during the preceding fiscal year, the Commission must determine the aggregate amount of that shortfall according to the method delineated in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) of Government Code Section 12012.90. This method provides that the amount shall be the sum of the amounts determined in the above two subparagraphs as follows:

- A. For each eligible recipient Indian tribe that received distributions for all four quarters of the fiscal year the amount shall be the difference between \$1.1 million and the actual amount paid to each eligible recipient Indian tribe during the fiscal year, and
- B. For each eligible recipient Indian tribe that received distributions for less than four quarters of the fiscal year the amount shall be the difference between \$275,000 for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year.

The aggregate amount of any shortfall in payments that occurred in the RSTF cannot be determined until the quarterly distribution amount for the fourth quarter of the prior fiscal year is approved by the Commission. Upon approval of the fourth quarter amount presented and recommended by Commission staff at the Commission meeting of July 21, 2005, it will be determined that each of the seventy (70) eligible recipient Indian tribes received \$407,374.90 from the RSTF for all four quarters of the prior fiscal year resulting in a shortage of \$692,625.10 for each eligible recipient Indian tribe. The aggregate amount of the shortfall in payments to all eligible recipient Indian tribes for the fiscal year 2004-05 totals \$48,483,757.00.

The statute calls for the Commission to distribute the moneys without delay to eligible recipient Indian tribes. As noted above, the aggregate amount of any shortfall to be distributed cannot be determined until the actual amount of the fourth quarter distribution is determined. On July 11, 2005 the agenda for the July 21, 2005, Commission meeting that included consideration of this *Item* and the *RSTF Report of Distribution to Non-Compact Tribes* for the fourth quarter was announced. This is generally the earliest that the fourth quarter distribution report can be considered due to the inherent administrative constraints of completing all accounting, reconciliation, and report preparation procedures related to the regular quarterly RSTF distribution process. The earliest that the Commission would thus be able to consider a shortfall distribution report is at the Commission meeting of July 21, 2005.

No reporting of this information to the Legislature is presently required. However, it will be recommended by Commission staff that the Commission voluntarily provide a copy of this report to the Legislature for informational purposes.

Pursuant to Items 0855-101-0366 and 0855-111-0367 of the Budget Act of 2005 (Senate Bill 77, Chapter 38, Statutes of 2005) \$50.5 million was appropriated and authorized for transfer and subsequent distribution to Non-Compact Tribes per Government Code Section 12012.90. As noted in Budget Item 0855-111-0367 the Director of Finance must first order the transfer of moneys by the Controller before the Commission can issue distributions. Commission staff will work with our Accounting Office, the State Controller's Office, and the Department of Finance to ensure that the transfer and distribution of these moneys are made as quickly as possible.

RECOMMENDATION: *It is recommended that the Commission approve this report to be submitted to the Legislature and the amounts of shortfall shown in Exhibit 1 determined pursuant to Government Code Section 12012.90 under the methodology prescribed therein.*

Exhibit 1**Aggregate Amount of Shortfalls in Payments that Occurred in the Indian Gaming Revenue Sharing Trust Fund for Fiscal Year 2004-05**

Eligible Recipient Indian Tribe	Quarters Eligible	Total Potential Distribution	Total Approved Distribution	Aggregate Shortfall
Alturas Indian Rancheria	4	\$1,100,000.00	\$407,374.90	\$692,625.10
Bear River Band of the Rohnerville Rancheria	4	1,100,000.00	407,374.90	692,625.10
Benton Paiute Reservation	4	1,100,000.00	407,374.90	692,625.10
Big Lagoon Rancheria	4	1,100,000.00	407,374.90	692,625.10
Big Pine Reservation	4	1,100,000.00	407,374.90	692,625.10
Big Sandy Rancheria	4	1,100,000.00	407,374.90	692,625.10
Bridgeport Paiute Indian Colony	4	1,100,000.00	407,374.90	692,625.10
Buena Vista Rancheria	4	1,100,000.00	407,374.90	692,625.10
Cahto Indian Tribe of Laytonville Rancheria	4	1,100,000.00	407,374.90	692,625.10
Cahuilla Band of Mission Indians	4	1,100,000.00	407,374.90	692,625.10
California Valley Miwok Tribe	4	1,100,000.00	407,374.90	692,625.10
Cedarville Rancheria	4	1,100,000.00	407,374.90	692,625.10
Chemehuevi Indian Tribe	4	1,100,000.00	407,374.90	692,625.10
Cher-Ae Heights Indian Community	4	1,100,000.00	407,374.90	692,625.10
Chicken Ranch Rancheria	4	1,100,000.00	407,374.90	692,625.10
Cloverdale Rancheria	4	1,100,000.00	407,374.90	692,625.10
Cold Springs Rancheria	4	1,100,000.00	407,374.90	692,625.10
Colorado River Indian Tribes	4	1,100,000.00	407,374.90	692,625.10
Cortina Rancheria	4	1,100,000.00	407,374.90	692,625.10
Death Valley Timbi-Sha Shoshone Tribe	4	1,100,000.00	407,374.90	692,625.10
Elem Indian Colony	4	1,100,000.00	407,374.90	692,625.10
Elk Valley Rancheria	4	1,100,000.00	407,374.90	692,625.10
Enterprise Rancheria	4	1,100,000.00	407,374.90	692,625.10
Ewiiapaayp Band of Kumeyaay Indians	4	1,100,000.00	407,374.90	692,625.10
Federated Indians of Graton Rancheria	4	1,100,000.00	407,374.90	692,625.10
Fort Bidwell Indian Community	4	1,100,000.00	407,374.90	692,625.10
Fort Independence Reservation	4	1,100,000.00	407,374.90	692,625.10
Fort Mojave Indian Tribe	4	1,100,000.00	407,374.90	692,625.10
Greenville Rancheria	4	1,100,000.00	407,374.90	692,625.10
Grindstone Rancheria	4	1,100,000.00	407,374.90	692,625.10
Guidiville Rancheria	4	1,100,000.00	407,374.90	692,625.10
Hoopa Valley Tribe	4	1,100,000.00	407,374.90	692,625.10
Inaja-Cosmit Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Ione Band of Miwok Indians	4	1,100,000.00	407,374.90	692,625.10
Jamul Indian Village	4	1,100,000.00	407,374.90	692,625.10

Exhibit 1 (Continued)**Aggregate Amount of Shortfalls in Payments that Occurred in the Indian Gaming Revenue Sharing Trust Fund for Fiscal Year 2004-05**

Eligible Recipient Indian Tribe	Quarters Eligible	Total Potential Distribution	Total Approved Distribution	Aggregate Shortfall
Karuk Tribe of California	4	1,100,000.00	407,374.90	692,625.10
La Jolla Band of Mission Indians	4	1,100,000.00	407,374.90	692,625.10
La Posta Band of Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Lone Pine Reservation	4	1,100,000.00	407,374.90	692,625.10
Los Coyotes Band of Cahuilla Indians	4	1,100,000.00	407,374.90	692,625.10
Lower Lake Rancheria	4	1,100,000.00	407,374.90	692,625.10
Lytton Rancheria	4	1,100,000.00	407,374.90	692,625.10
Manchester Point Arena Rancheria	4	1,100,000.00	407,374.90	692,625.10
Manzanita Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Mechoopda Indian Tribe	4	1,100,000.00	407,374.90	692,625.10
Mesa Grande Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Northfork Rancheria	4	1,100,000.00	407,374.90	692,625.10
Paiute Bishop Community	4	1,100,000.00	407,374.90	692,625.10
Pinoleville Reservation	4	1,100,000.00	407,374.90	692,625.10
Pit River Tribe	4	1,100,000.00	407,374.90	692,625.10
Potter Valley Rancheria	4	1,100,000.00	407,374.90	692,625.10
Quartz Valley Indian Community	4	1,100,000.00	407,374.90	692,625.10
Quechan Tribe of Fort Yuma	4	1,100,000.00	407,374.90	692,625.10
Ramona Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Redwood Valley Rancheria	4	1,100,000.00	407,374.90	692,625.10
Resighini Rancheria	4	1,100,000.00	407,374.90	692,625.10
Round Valley Indian Tribe	4	1,100,000.00	407,374.90	692,625.10
Santa Rosa Band of Cahuilla Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Santa Ysabel Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Scotts Valley Band of Pomo Indians	4	1,100,000.00	407,374.90	692,625.10
Sherwood Valley Pomo Indians	4	1,100,000.00	407,374.90	692,625.10
Shingle Springs Rancheria	4	1,100,000.00	407,374.90	692,625.10
Smith River Rancheria	4	1,100,000.00	407,374.90	692,625.10
Stewarts Point Rancheria	4	1,100,000.00	407,374.90	692,625.10
Susanville Indian Rancheria	4	1,100,000.00	407,374.90	692,625.10
Table Bluff Reservation	4	1,100,000.00	407,374.90	692,625.10
Torrez-Martinez Mission Indians	4	1,100,000.00	407,374.90	692,625.10
Upper Lake Band of Pomo Indians	4	1,100,000.00	407,374.90	692,625.10
Washoe Tribe of Nevada & California	4	1,100,000.00	407,374.90	692,625.10
Yurok Tribe of the Yurok Reservation	4	1,100,000.00	407,374.90	692,625.10
Total		\$77,000,000.00	\$28,516,243.00	\$48,483,757.00

Government Code Section 12012.90

(a) (1) For each fiscal year commencing with the 2002-03 fiscal year, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars (\$275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, "eligible recipient Indian tribe" means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars (\$275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding.